

# **EXHIBIT 3**

Steven W. Schierholt, Esq.  
Executive Director

John R. Kasich  
Governor



**IN THE MATTER OF:**

**CASE No. 2016-1299-A  
2016-1299-B**

**Giant Eagle Pharmacy #6501**  
c/o Shawna Ricker, RPh  
1250 North Hamilton Road  
Columbus, Ohio 43230

**License No. 02-1311200**

**AND**

**Shawna Ricker, RPh**  
6878 Addenbrook Blvd.  
New Albany, Ohio 43054

**License No. 03-2-28255**

**SETTLEMENT AGREEMENT WITH THE STATE OF OHIO BOARD OF PHARMACY**

This Settlement Agreement (Agreement) is entered into by the State of Ohio Board of Pharmacy (Board) and Giant Eagle Pharmacy #6501 and Shawna Ricker, for the purpose of resolving all issues between the parties relating to the Board investigation of the failure to report significant drug losses to the Board. Together, the Board, Giant Eagle Pharmacy #6501 and Shawna Ricker are referred to hereinafter as "the parties."

**JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.54 of the Ohio Revised Code.
2. Giant Eagle Pharmacy #6501 is a licensed Terminal Distributor of Dangerous Drugs under license number 02-1311200 and Shawna Ricker is a licensed pharmacist under license number 03-2-28255.
3. Pursuant to Section 4729.16 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Sections 4729.07 and 4729.08 of the Ohio Revised Code to practice pharmacy in the state of Ohio.
4. Shawn Ricker is an Ohio-licensed pharmacist under license number 03-2-28255.

**FACTS**

77 South High Street, 17th Floor, Columbus, Ohio 43215

T: (614) 466.4143 | F: (614) 752.4836 | [contact@pharmacy.ohio.gov](mailto:contact@pharmacy.ohio.gov) | [www.pharmacy.ohio.gov](http://www.pharmacy.ohio.gov)



PLAINTIFFS TRIAL  
EXHIBIT

**P-15047\_00001**

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P-15047 \_ 00001

1. On or about March 9, 2016, the Board initiated an investigation of Giant Eagle Pharmacy #6501, Terminal Distributor of Dangerous Drugs license number 02-1311200 and Shawna Ricker's, license number 03-2-28255 related to Giant Eagle Pharmacy #6501 and Shawna Ricker's failure to report significant drug losses to the Board.
2. On or about May 30, 2017 the Board sent a Notice of Opportunity for Hearing to Giant Eagle Pharmacy #6501 and Shawna Ricker, which outlined the allegations and provided notice of their right to a hearing, their rights in such hearing, and their right to submit contentions in writing.
3. On or about June 9, 2017, Giant Eagle Pharmacy #6501 and Shawna Ricker timely requested an administrative hearing, which was subsequently scheduled for December 12, 2017.

WHEREFORE, the parties desire to resolve the issues relating to the above-referenced findings without resorting to further administrative or judicial proceedings.

#### **TERMS**

NOW THEREFORE, in consideration of the mutual promises herein expressed, the parties knowingly and voluntarily agree as follows:

1. The recitals set forth above are incorporated in this Settlement Agreement as though fully set forth herein.
2. Giant Eagle Pharmacy #6501 and Shawna Ricker neither admit nor deny the allegations stated in the Notice of Opportunity for Hearing letter dated May 30, 2017; however, the Board has evidence sufficient to sustain the allegations, finds them to violate Ohio's pharmacy law as set forth in the Notice, and hereby adjudicates the same.
3. Giant Eagle Pharmacy #6501 agrees to pay to the Board a monetary penalty in the amount of \$2,500.00, by means of a cashier's check made payable to "Treasurer, State of Ohio," mailed with the enclosed form to the Board, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126, no later than 30 days from the effective date of this Agreement.
4. Giant Eagle Pharmacy #6501 agrees to:
  - a. Continue training staff in Best Practices, quarterly education meetings, and training pharmacy staff in loss prevention measures, including inventory, record keeping and security of controlled substances.
  - b. Continue training pharmacy staff on the company's controlled substance dispensing guidelines and other policies and procedures for the filling and dispensing of prescriptions for controlled substances and to periodically review and revise such policies, as appropriate;



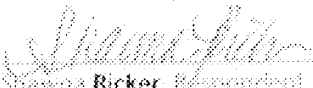




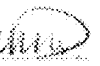
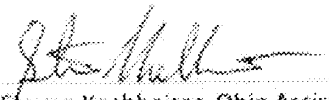

- c. Continue to evaluate and monitor the pharmacy's physical theft/loss prevention measure, which include, but are not limited to the following:
    - i. delivery personnel are escorted in and out of the pharmacy premises;
    - ii. cell phones are placed on silent and kept only in designated locations;
    - iii. personal belongings are stored in clear containers within designated area the is under constant video surveillance;
    - iv. smocks cannot be worn outside pharmacy; and
    - v. all controlled substances will be segregated in the order received and are verified against the invoice by a pharmacist.
  - d. Require Giant Eagle Pharmacy #6501 pharmacists to complete and/or repeat DEA continuing education on controlled substances; and
  - e. Continue to perform regular internal audits on controlled substance compliance with federal and state laws and regulations as well as compliance with company policies and procedures.
5. Shawna Ricker agrees to attend a Board-sponsored "Responsible Person Roundtable," within 6 months of the effective date of this agreement and provide proof of completion to the Board within 30 days of attendance. Proof of completion is to be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
6. Shawna Ricker must obtain 5 hours of approved continuing pharmacy education (0.5 CEUs), which may not also be used for license renewal. Copies of completed CEUs must be e-mailed to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov).
7. Giant Eagle Pharmacy #6501 and Shawna Ricker, or any subsequent Responsible Person, agrees and acknowledges that this Board disciplinary action must be disclosed to the proper licensing authority of any state or jurisdiction, as required by any such state or jurisdiction, in which Giant Eagle #6501 currently holds a professional license, including the Board on renewal applications or applications for a new license.
8. Giant Eagle Pharmacy #6501 agrees to comply with all federal and state requirements related to Terminal Distributors of Dangerous Drugs, including but not limited to, Ohio Revised Code Chapter 4729. and the Rules adopted thereunder, Chapter 3719. and the Rules adopted thereunder, Chapter 3715. and the Rules adopted thereunder as well as the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301 and Chapter 21, Section 360 of the United States Code, and Section 207.20 of the Code of Federal Regulations. Any violation by Giant Eagle Pharmacy #6501 of the terms of one or more federal or state requirements may constitute sufficient grounds for further enforcement action related to any licenses granted to Giant Eagle Pharmacy #6501 by the Board and will NOT discharge Giant Eagle Pharmacy #6501 from any obligation under the terms of this Agreement.

9. Giant Eagle Pharmacy #6501 agrees to pay all reasonable costs associated with the collection of any payment, and of the prosecution of any violation of this Agreement.
10. Giant Eagle Pharmacy #6501 understands that it has the right to be represented by counsel for review and execution of this agreement.
11. This Agreement is binding upon any and all successors, assigns, affiliates, and subsidiaries of the parties or any other corporation through whom or with whom Giant Eagle Pharmacy #6501 will operate.
12. Giant Eagle Pharmacy #6501 and Shawna Ricker waive their opportunity to be heard pursuant to Chapter 119. of the Ohio Revised Code, specifically withdraw their request for hearing in this matter, and waive any right to appeal.
13. This Agreement may be executed in counterparts or facsimiles, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
14. All parties to this Agreement understand that this document is a public record pursuant to Ohio Revised Code Section 149.43.
15. This Agreement contains the entire agreement between the parties, there being no other agreement of any kind, verbal or otherwise, which varies the terms of this Agreement.
16. This Agreement shall become effective upon the date of the Board President's signature below.

*[SIGNATURE PAGE FOLLOWS]*

IN WITNESS WHEREOF, the parties to this Agreement have executed it and/or cause it to be executed by their duly authorized representatives.

Approved by:

 BY: Giant Eagle #6501, Respondent Jerry LeClair EVP, Chief Merchandising & Operations Officer	 Date of Signature
 Shawna Ricker, Respondent	 Date of Signature
 Mark Armstrong, Attorney for Respondent	 Date of Signature
 Mugger Meade, PharmD State of Ohio Board of Pharmacy	 Date of Signature
 Steven Kochheiser, Ohio Assistant Attorney General	 Date of Signature

Steven W. Schierhoff, Esq.  
Executive Director

John R. Kasich  
Governor



**STATE OF  
OHIO**  
BOARD OF PHARMACY

**NOTICE OF OPPORTUNITY FOR HEARING  
PROPOSAL TO TAKE DISCIPLINARY ACTION AGAINST LICENSEE**

IN THE MATTER OF:

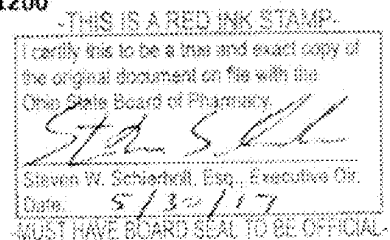
CASE NO. 2016-1299-A

Giant Eagle Pharmacy #6501  
c/o Shawna Ricker, RPh  
1250 North Hamilton Road  
Columbus, OH 43230

License No. 02-1311200

May 30, 2017

Dear Giant Eagle Pharmacy #6501 and Shawna Ricker,



You are hereby notified, in accordance with the provisions of Section 119.07 of the Ohio Revised Code the state of Ohio Board of Pharmacy (Board) proposes to take action against your license as a Terminal Distributor of Dangerous Drugs under authority of Section (TDDD) 4729.57 of the Revised Code.

**JURISDICTION**

1. Pursuant to Section 4729.57 of the Ohio Revised Code and the rules adopted thereunder, the Board has the authority to suspend, revoke, or refuse to grant or renew any license issued pursuant to Section 4729.55 of the Ohio Revised Code to practice as a TDDD in the state of Ohio. Additionally, Section 4729.57 of the Revised Code grants the Board the authority to impose a monetary penalty or forfeiture not to exceed in severity any fine designated under the Revised Code for a similar offense or \$1,000 if the acts committed have not been classified as an offense by the Revised Code.
2. Giant Eagle Pharmacy #6501 located at 1250 North Hamilton Road Columbus, Ohio has a current TDDD license with the Board under license numbers 02-1311200 which lists Shawna Ricker as the Responsible Person.

**ALLEGATIONS**

1. On or about March 8, 2016, the Board was notified of a theft of drugs by a pharmacy technician employed at Giant Eagle Pharmacy #6501 located at 1250 North Hamilton Road Columbus, OH. During a traffic stop by the Gahanna Police Department, the employee was found to be in possession of a stock bottle containing 365 tablets of Xanax (alprazolam) and marijuana.
2. During an investigation by an Agent of the Board, it was discovered that Giant Eagle and Shawna Ricker were aware of significant losses of controlled substances and failed to the notify the Board. Upon review of the store's copy of Drug Enforcement Administration 106 forms, the Agent observed significant losses that were not reported on the following dates:

77 South High Street, 17th Floor, Columbus, Ohio 43215

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- a. On August 25, 2015, an estimated loss of 494 tablets of alprazolam 1mg.
  - b. On September 22, 2015, an estimated loss of 120 tablets of alprazolam 2mg.
3. At the request of the Agent conducting the investigation, you checked for additional losses and discovered:
  - a. On March 16, 2016, an estimated loss of 490 tablets of alprazolam 1mg.
  - b. On March 16, 2016, an estimated loss of 51 tablets of alprazolam 2mg.
  - c. On March 16, 2016, an estimated loss of 4 bottles or 1, 785 ml of promethazine-codeine syrup.
4. The audit conducted by the agent on alprazolam 1mg, alprazolam 2mg, and promethazine with codeine syrup from May 1, 2015 through May 16, 2016 revealed the following losses:
  - a. An estimated loss of 938 tablets of alprazolam 1mg
  - b. An estimated loss of 679 tablets of alprazolam 2mg
  - c. An estimated loss of 2819ml of promethazine with codeine syrup
5. Responsible Person, Shawna Ricker, admitted during an interview that she was not aware of the corporate checklist to appropriately handle the reporting process of any loss in the pharmacy.

#### POTENTIAL VIOLATIONS OF LAW

1. Such conduct as set forth in paragraphs (1) through (5) of the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.55 of the ORC, each punishable by a maximum penalty of \$1,000:
  - a. Adequate safeguards are assured to prevent the sale or other distribution of dangerous drugs by any person other than a pharmacist or licensed health professional authorized to prescribe drugs, ORC Section 4729.55(C); and/or
  - b. Adequate safeguards are assured to carry on the business of a terminal distributor of dangerous drugs in a manner that allows pharmacists and pharmacy interns employed by the terminal distributor to practice pharmacy in a safe and effective manner, ORC Section 4729.55(D).
2. Such conduct as set forth in paragraphs (1) through (5) of the Allegations Section, if proven, constitutes a violation of each of the following divisions of Section 4729.57 of the ORC, a minor misdemeanor, each punishable by a maximum fine of \$1,000:
  - a. Violating any rule of the board, ORC Section 4729.57(A)(2); and/or
  - b. Violating any provision of this chapter, ORC Section 4729.57(A)(3); and/or
  - c. Ceasing to satisfy the qualifications of a TDDD set forth in 4729.55 of the Revised Code, ORC Section 4729.57(A)(7).

3. Such conduct as set forth in paragraphs (1) through (5) of the Allegations Section, if proven, constitutes a violation of Ohio Administrative Code Rule 4729-9-15(A)(1), report of theft or loss of dangerous drugs, controlled substances, and drug documents, punishable by a maximum fine of \$1,000.
4. Such conduct as set forth in paragraphs (1) through (3) of the Allegations Section, if proven, constitutes a violation of Ohio Administrative Code Rule 4729-9-19(A)(4), not of good moral character and habits, punishable by a maximum fine of \$1,000.


YOU ARE FURTHER NOTIFIED, in accordance with the provisions of Chapters 119, and 4729, of the Ohio Revised Code, that you are entitled to a hearing before the State of Ohio Board of Pharmacy, if you request such a hearing within thirty 30 days of the date of the mailing of this notice.

**IF YOU DESIRE A HEARING**, such request shall either be mailed to the State of Ohio Board of Pharmacy, Attn: Legal, 77 South High Street, 17<sup>th</sup> Floor, Columbus, Ohio 43215-6126 or an e-mail request may be sent to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov) (please note faxes will not be accepted). **YOUR REQUEST MUST BE RECEIVED ON OR PRIOR TO THE 30<sup>TH</sup> DAY FOLLOWING THE MAILING DATE OF THIS NOTICE.** Please note that if you submit a request via email, your request will be acknowledged within one business day of receipt. If you do not receive an acknowledgment, please contact the Board offices at 614-466-4143 and request the legal department. You may appear at such hearing in person, by your attorney, or by such other representative as is permitted to practice before the agency, or you may present your position, arguments or contentions in writing; and, at this hearing, you may also present evidence and examine any witnesses appearing for and against you.

**YOU ARE FURTHER ADVISED** that if there is no request for such a hearing received by the Board on or prior to the 30<sup>th</sup> day following the mailing of this notice, the State of Ohio Board of Pharmacy, upon consideration of the aforementioned allegations against you, may take action without such a hearing.

If you have questions regarding the Chapter 119, Administrative Hearing process, please e-mail your questions to [legal@pharmacy.ohio.gov](mailto:legal@pharmacy.ohio.gov) or call the Board office at 614-466-4143 and ask for the legal department.

BY ORDER OF THE STATE OF OHIO BOARD OF PHARMACY

  
Steven W. Schierholt, Esq., Executive Director

SWS/rlc

CMRRR:7005 0390 0001 8572 4658

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

Giant Eagle Pharmacy #6501  
 c/o Shawna Ricker  
 1250 North Hamilton Rd  
 Columbus OH 43230-6784



9590 9402 2277 6225 9759 41

## 2. Article Number (Transfer from service label)

7005 0390 0001 8572 4658

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

X

☐ Agent☐ Address

## B. Received by (Printed Name)

☐ Date of Delivery

D. Is delivery address different from item 1? ☐ Yes  
 If YES, enter delivery address below: ☐ No

## 3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation®
- ☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt